5010123

SURPRIE PLE

PETE WILSON, Governor

STATE WATER RESOURCES CONTROL BOARD

THE PAUL R. BONDERSON BUILDING 901 P STREET SACRAMENTO, CA 95814

(916) 657-1989

FAX: (916) 657-1485

Mailing Address

DIVISION OF WATER RIGHTS

P.O. BOX 2000, Sacramento, CA 95812-2000



FEB 1 1 1993

In Reply Refer to:363:RF:262.0(45-18-2)

To Enclosed Mailing List

Ladies and Gentlemen:

UNAUTHORIZED DIVERSION FROM UNNAMED STREAM (AKA JOHNSON CREEK) TRIBUTARY TO MONTGOMERY CREEK, SHASTA COUNTY, APPLICATION 26015

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) conducted an investigation of water rights on an unnamed stream (aka Johnson Creek), tributary to Montgomery Creek, in response to protests against Water Right Application 26015. The disputed diversion is located in the NW 1/4 of the SW 1/4 of Section 32, T35N, R1E, MDB&M. The details and results of the investigation are embodied in the "Staff Analysis of Minor Protested Application, April 1992" for Application 26015. The staff analysis was mailed to all parties on May 12, 1992. The staff analysis addressed the water rights of ten protestants, collectively referred to as the "Upper Ditch Users", and refuted their claims to a pre-1914 notice of appropriation and riparian water rights. The analysis indicated that the Upper Ditch Users should file an application with the State Water Board for a permit to appropriate unappropriated water from Johnson Creek.

As a result of complaints filed by Gaylan Eslinger, William Rieck, Don Robinson, Lester Eldridge and Richard Brown, a Division staff engineer visited the diversion point on November 9, 1992, and noted that the diversion from Johnson Creek to the upper ditch was still in operation. Based on the findings in the staff analysis, the continued diversion of water from Johnson Creek to the Upper Ditch, thence to the properties north of State Highway 299, is an unauthorized diversion and a trespass against the State within the meaning of State Water Code Sections 1052-1055, inclusive.

You are hereby directed to cease the diversion of water from Johnson Creek into the Upper Ditch and render your diversion facilities inoperable within 30 days of the date of this letter. The facility shall remain inoperable until such time as a valid water right has been secured. Failure to comply with this directive may cause the State Water Board to seek administrative civil liability of up to \$500 per day of the violation.

You may apply to secure an appropriative water right for the diversion from Johnson Creek by filing an application for your own place of use; or, a group of people may form a mutual water company and file one application in the name of the water company. You may wish to contact Murt Lininger, Chief of Applications and Hearing Sections for application forms and more information specific to your situation. Mr. Lininger may be reached at (916):657-1954.

1-27-93 URNAME WR 540 REV. 1/EE

1/28/93

128 Robert

If you have any questions concerning this matter, I may be reached at $(916)\ 657-1359$. The staff person who visited the site was Ricardo Fuentes. He may be reached at $(916)\ 657-1989$.

Sincerely,

OTICINAL MENED TI

Edward C. Anton, Chief Division of Water Rights

CERTIFIED

Enclosure bcc: M. K. Lininger

RFUENTES:knox:final:1/27/93 rknox300:ricardo:L26015

WR40-1 (4/96)

STATE WATER RESOURCES CONTROL BOARD, DIVISION OF WATER RIGHTS P.O. BOX 2000 SACRAMENTO, CA 95812-2000 (916) 657-2170

(916) 657-21

SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE

If the information below is inaccurate, please line it out in red and provide current information.

Notify this office if ownership or address changes occur during the coming year.

PLEASE COMPLETE AND RETURN THIS FORM BY JULY 1, 1996.

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A.	SOURCE: JOHNSON CREEK TRIBUTARY TO: MONTGOMERY CREEK COUNTY: SHASTA DIVERSION WITHIN: NW% OF SW% SECTION 32, T35N, R1E, MB&M. Water is used under: Riparian claim; Pre 1914 right; Other (ex											L NO:	6668 RST US	k: E: 1883	
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"Appropriation of Water in California"
"Water Rights for Stockponds Constructed Prior to 1969"
"Information Pertaining to Water Rights in California"
"Statements of Water Diversion and Use"
ney or write to this office. We have several pamphlets available, including the following:
The above discussion is provided for general information. For more specific information concerning water rights, please contact an attor-
diversion, and (3) assists the State to determine if additional water is available for future appropriators.
Statements of Water Diversion and Use must be filled by riparian and pre-1914 appropriative water users. The filling of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their
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There are two principal types of surface water rights in California, riparian and appropriative rights.
GENERAL INFORMATION PERTRINING TO WATER RIGHTS IN CALIFORNIA
CENERAL INFORMATION DEPTAINING TO WATER PIGHTS IN CALIFORNIA

State of California

Memorandum

To

Statement Files 10052, 10073,10077, 10092 10101, 10104, 123, 10924

and 10960

Date:

JUL 1 6 1992

Kathanie Mrowko

Katherine Mrowka Associate WRC Engineer

From

DIVISION OF WATER RIGHTS

STATE WATER RESOURCES CONTROL BOARD

Subject:

INFORMATION REGARDING THE BASIS OF RIGHT FOR STATEMENTS OF WATER DIVERSION AND USE LISTED ABOVE

During April, 1992, the Division of Water Rights circulated a Staff Analysis of Minor Protested Application 26015. No acceptable hearing requests were filed. Therefore, the Staff Analysis is now considered final. The analysis discusses the basis of right for the Statements of Water Diversion and Use listed above. Therefore, the pertinent pages of the analysis should be included in these files.

Attachments

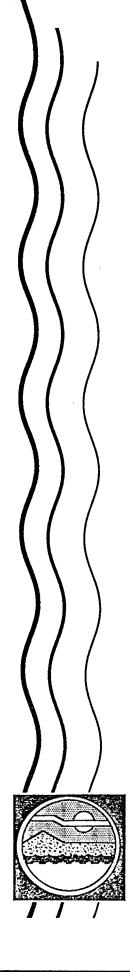


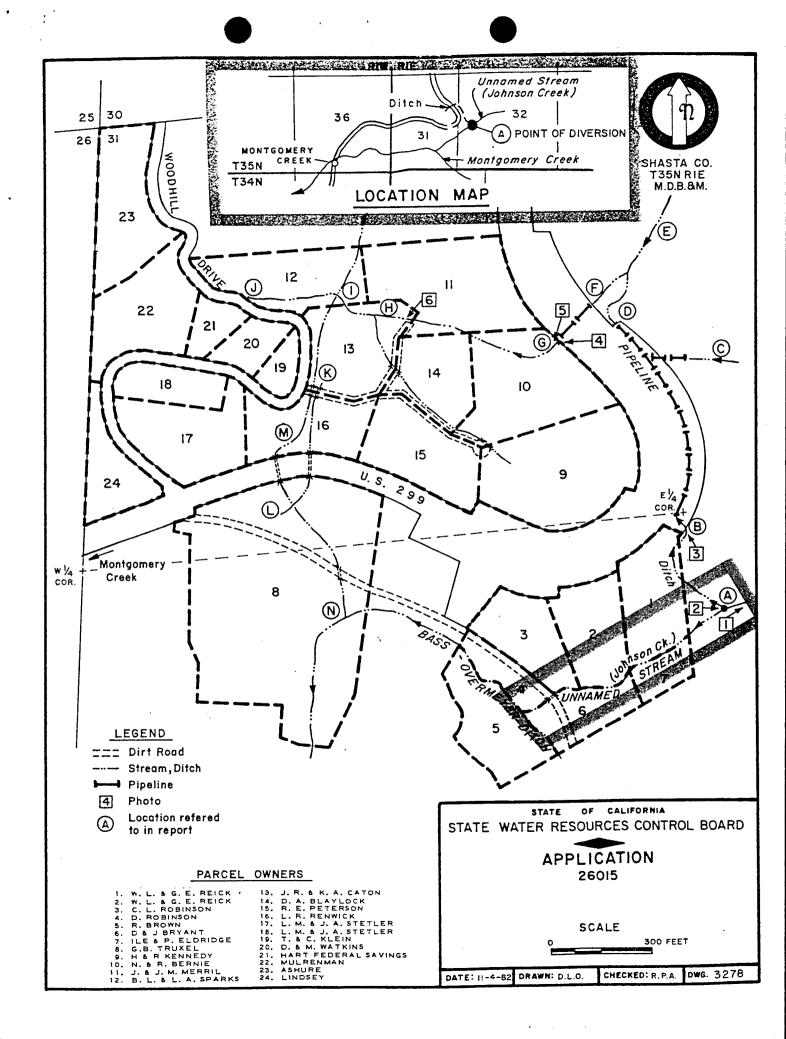
APPLICATION 26015
WILLIAM L. and GEORGENE E. RIECK

Unnamed stream (aka Johnson Creek) tributary to Montgomery Creek in Shasta County

APRIL 1992

STATE WATER RESOURCES CONTROL BOARD CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY





in 1929 and was eventually sold to the ditch water users. The Notice specifically lists the parcels adjacent to Johnson Creek as the parcels which the claim was intended to serve. Therefore, it does not appear that Mr. Questini intended the claim to establish a basis of right for Parcels 9 through 23.

6.3 Statements of Water Diversions and Use and Listing of Parcel Ownership

Nine of the protestants have filed Statements to describe their claimed water rights. The Statements are listed below:

Statement	Name	<u>Parcel</u>	Amount	Year of First Use
10052	Sparks	12	2,500 gpd	1976
10073	Watkins	20	0.012 cfs	1979 (per protest)
10073	Kennedy	9	0.050 cfs	1976
10077	Troxell	8	0.325 cfs	1883
		13	0.038 cfs	1963 (per protest)
10101	Caton		0.095 cfs	18831
10104	Shuffleton	10	• •	-
10123	Blaylock, et al	. 14	0.032 cfs	1883
10924	Klein	19	14,000 gpd	1979 (per protest)
10960	Stetler	17 & 18	0.060 cfs	1929
**	Merrill	11		unknown
**	Petersen	15		1883 (per protest) ²
**	Renwick	16		1976 (per protest)
•	Kellwick		3.A	3
**		22, 23 & 2	24	

^{**} No Statement on file for these protestants.

6.4 History of Dispute Regarding Water Use

The Division's records indicate that a dispute arose in 1977 between the owners of Parcels No. 1 through 6 and owners of Parcels No. 8 through 21 as to whether the pre-1914 appropriative rights apparently initiated by John Questini at diversion Point A were lost due to forfeiture for a period of non-use of at least five years prior to 1977. Further information about the ditch was obtained from the "Complaint for Determination of Water Rights, Trespass, Nuisance and Injunction" filed on behalf of William and Georgene Rieck in Shasta County Superior Court on November 3, 1983. The complaint alleges that the Upper ditch was out of service for a substantial period of time in the 1960's and 1970's.

^{1 1982} Field Investigation found that the only water which has been used is for fire control. There is limited development of the parcel, and it had been recently sold. The new owner will likely make beneficial use of water in the future.

² 1982 Field Investigation found that no water had been beneficially used for a number of years. The parcel had not been developed.

^{3 1982} Field Investigation found that no water has been used on these parcels for many years.

6.5 Discussion of Pre-1914 Appropriative Right

The 1976 Agreement describes the ditch water right as a riparian right; no reference is made to any pre-1914 appropriative right. However, the Division's Johnson Creek adjudication file indicates that the ditch users have previously claimed a pre-1914 appropriative right on Johnson Creek. Also, the ditch users submitted information regarding a claimed pre-1914 appropriative right to support their protests of Application 26015. The pre-1914 claims of right are described in Section 6.2 of this Analysis.

In reviewing water use under claimed pre-1914 right, the following is noted. First, once an appropriative right has been acquired, it can be maintained only by continuous beneficial use of water. Second, regardless of the amount claimed in the original notice of appropriation or at the time diversion and use first began, the amount which now can be rightfully claimed under an appropriative right initiated prior to December 19, 1914 has, in general, become fixed by actual beneficial use as to both amount and season of diversion. (see California Water Code Section 1202(b)). Third, the place of use or purpose of use may be modified under a pre-1914 claim of right.

The Department of Water Resources (DWR) investigated existing water use in this area of Shasta County (see attached Application 26015 Location Map) and reported this use in "DWR Bulletin 22 - Shasta County Investigation, July, 1964". The report summarizes the lands upon which water was utilized during 1955 and 1956 (see page 66). The irrigated lands are shown on DWR Plate 15 map, dated 1960. Bulletin 22 indicates that less land was irrigated in 1960 than is presently irrigated. The DWR maps indicate that only Parcels 8, 15, 16, 17 and 18 were irrigated in 1960. The map indicated that Parcel 12 is within the boundaries of irrigable lands. The remaining parcels were not included within the presently irrigated or irrigable areas. Finally, the 1956 U.S.G.S. Montgomery Creek quadrangle map shows no houses on Parcels 9 through 24. The only residence which existed at that time was located on Parcel 8.

Many of the protestants have indicated that water use began on their parcels prior to 1960, though their personal domestic use was initiated at a later date. The DWR map provides useful information on the limits of the actual irrigated area in 1960. The Division's 1982 investigation found that no water use was occurring on Parcel 15. Thus, it appears that irrigation of this parcel had ceased by 1982. Irrigation of Parcels 19, 20 and 21 was apparently initiated after 1960. Based upon this information, Division staff concludes that total water use for irrigation purposes has increased beyond historic levels after 1960.

Water use for domestic purposes also appears to have increased after 1914. A summary of annual water development by the ditch users was obtained by adding together the annual use listed in the Statements (see Section 6.3) or obtained by investigation (see Section 7.0 for this data). The first column represents data obtained from the Statements, unless otherwise noted.

Application 26015

Quantity Date Use Began	Parcel Numbers					
0.357 cfs 1883	8, 14 (DWR Bulletin 22 indicates that Parcel 14 was not irrigated in 1960 and the 1956 U.S.G.S. map shows no house on this parcel. Therefore, it does not appear that there is a valid pre-1914 claim of right to 0.007 cfs (per 1982 field investigation). Also, an 1883 priority is claimed for Parcels 10 and 15, but the 1982 investigation found that no water was being used on these parcels.)					
0.060 cfs 1929	17, 18 (0.072 cfs per investigation)					
0.038 cfs 1963	13 (per Statement, 0.0093 cfs per investigation) (Domestic use on Parcels 17 and 18 is said to have begun in 1963irrigation use on these parcels began in 1929. All water used on these two parcels is listed above under year 1929.)					
0.073 cfs 1976	9, 12, 16					
<u>0.034 cfs</u> 1979	19, 20 (0.026 cfs per investigation)					
Total 0.562 cfs	(Investigation concluded use is 0.33 cfs, whereas the use listed in the Statements is 0.56 cfs.)					

Seven of the ten protestants have indicated that their use was initiated after 1963. Further, protestant Shuffleton (Parcel 10) has indicated that his use began in 1883. However, the 1982 field investigation found that water use on the Shuffleton parcel was limited to fire protection. Based upon the information summarized above, it appears that use of roughly 0.35 cfs was initiated prior to 1914. Use of about 0.21 cfs (balance of column 1) was apparently initiated after 1914.

The 0.35 cfs noted above (Statement 10092 lists 0.325 cfs) is used on Parcel 8, which also obtains water from the Bass-Overmeyer Ditch under pre-1914 claim of right. Division staff estimates that only part of the 0.325 cfs pre-1914 claimed right for Parcel 8 was obtained from Johnson Creek because Parcel 8 is better situated to obtain water from the Bass-Overmeyer Ditch. Parcel 8 may also obtain water from the unnamed stream which originates on the north side of Highway 299.

Prior to the 1975 settlement of the Estate of Alice May Lattin, the Upper ditch was mainly used to provide water for irrigation purposes. As noted above, the 1960 DWR map indicates that total irrigation use increased after 1960. Thus, Division staff concludes that the increase in domestic use has not been offset by a reduction in irrigation use and total water use has increased.

The pre-1914 claim of right filed by John Questini states that it was filed to initiate a right for Parcels 2, 3, 5, 6 and 8. Mr. Questini indicated that "I intend to divert it by flume and ditch in size adequate to carry the ...

amount appropriated." It does not appear that Mr. Questini intended to initiate a right for Parcels 9 through 23. Even if a right was established for these parcels, the right would have become fixed by actual beneficial use. It cannot be enlarged at this late date to accommodate the water users who have recently initiated use. Water use has increased since 1914 and it does not appear that the new uses can be classified as maintenance of any pre-existing appropriative right that may have existed. Thus, it appears that the claimed pre-1914 appropriative right is inadequate to cover present uses and the protests filed by the owners of Parcels 9, 10, 12, 13, 15, 16, 17, 18, 19, 20, 22, 23 and 24 cannot be maintained. The protest filed by the owner of Parcel 14 can only be maintained if domestic use has been ongoing since December 19, 1914, because Division records indicate that the property was not historically irrigated. However, the 1956 U.S.G.S. Montgomery Creek quadrangle map indicates that there was no house on Parcel 14 in 1956. the protest filed by Blaylock, et al. (Parcel 14) should be dismissed. Only the protest filed by Troxell (Parcel 8) based upon a pre-1914 claim of right should be maintained. Division staff notes that Merrill, the owner of Parcels 11 and 21 did not protest Application 26015.

6.6 Riparian Claim of Right

The recorded water supply agreement (see Section 6.1) states that the basis of right is riparian. A riparian right is limited to the amount which is naturally tributary to the property, exists by reason of ownership of land abutting upon a stream or body of water and affords no basis of right to use water upon nonriparian land. (Rancho Santa Margarita v. Vail, 11 Cal. 2d 501, 80 P. 2d 533) The shaded area on the Location Map indicates the approximate boundary of the land within the watershed of Johnson Creek, which is the extent of the lands riparian to this source. The riparian right for use of Johnson Creek water does not appear to extend to Parcels 9 through 23 because the lands are not within the watershed of the source. The property owners (of Parcels 9 through 23) may be served under riparian claim of right from the other three sources shown on the Location Map (at locations C, E, and I) if the ditch was established prior to subdivision of the ranch and the riparian right was preserved.

Parcel 8 is within the watershed of Johnson Creek. In order to divert water under claim of riparian right, the diverter must use the water on riparian land but need not own the land at the point of diversion. That is, such diverter may divert at a point upstream from his land so long as permission is granted to use that point of diversion, and intervening land owners between the point of diversion and the place of use are not adversely affected by such practices. (Turner v. James Canal Co., 155 Cal. 82, 99 P. 520 (1909)) To use the point of diversion on BLM land, the water must pass through the Rieck property in the ditch (he appears to be riparian on the portion of his land which is within the watershed of Johnson Creek). The Riecks object to the claimed riparian diversion by the ditch water users and filed a Complaint for Determination of Water Rights, Trespass, Nuisance and Injunction in the Shasta County Superior Court on November 3, 1983. Due to the expense of pursuing this matter in Court, Mr. Rieck has expressed his desire for the Division to proceed with a determination of whether Application 26015 should be permitted.

6.6.1 Conclusions Regarding Riparian Rights of Protestants

It does not appear that water from Johnson Creek which is conveyed by the Upper ditch can be used on Parcels 9 through 23 under a riparian claim of right because these parcels are located outside of the watershed of Johnson Creek. Further, it appears that Parcel 8 cannot be served under riparian claim of right because the landowner at the point of diversion, the Riecks, have denied access to the point of diversion and the Riecks claim that the present diversion is adverse to their riparian right. It appears that this element of the protest based on injury to vested rights should be dismissed because the protestants do not appear to have a valid basis of riparian right for Johnson Creek.

7.0 AVAILABILITY OF UNAPPROPRIATED WATER

As described in the protest filed by the Bureau, the proposed diversion season is inconsistent with the times when unappropriated water is available as determined by the State Water Board in Decision 1045. The applicant may be entitled to water pursuant to an area of origin principle. However, this analysis is silent on this issue because of other State Water Board decisions which affect water availability in this watershed (see discussion of Decision 1594 below). The previous applicant, Paul Rideout, agreed to the following permit term to address the water availability issue:

"Buring the period between June 15 and September 1, if in the absence of permittee's diversion, hydraulic continuity would exist between permittee's diversion point and Montgomery Creek, permittee shall not divert water, but shall open his diversion works and allow the water to flow undiminished downstream."

Division staff does not recommend inclusion of the proposed permit term. Johnson Creek is a perennial stream. The proposed term would require continual flow bypass during the summer months and the Riecks would not be able to divert water under riparian claim of right to these circumstances. Alternatives to inclusion of this term exist and appear to be feasible. In Decision 1594, the State Water Board found that there is no unappropriated water available from June 15 through August 31 to approve diversions of less than one cfs from any tributary of the San Francisco Bay-San Joaquin Delta above Collinsville. Roughly one-half of the Riecks property is located within the Johnson Creek watershed (see Location Map) and may be served under riparian claim of right. However, the application does not indicate which part of the parcel will be served and the Division's records do not indicate whether only the riparian portion of the Rieck property will be served. Thus, it appears that the options for issuance of a permit authorizing year-round appropriation of water should be investigated.

One option is to authorize continual diversion (January 1 through December 31) if a water exchange contract is entered into with the Shasta County Water Agency (this is one of the alternatives suggested by the Bureau to resolve it's protest) and is consistent with State Water Board Decision 1045. If a water exchange contract is obtained to cover summer diversion, then any permit

STATE OF CALIFORNIA STATE WATER RESOURCES CONTROL BOARD Division of Water Rights

SACRAMENTO, CA 95810 SACRAMENTO, CA 95810 P.O. BOX 2000 901 P ST. (916) 322-4503

SUPPLEMENTAL STATEMENT OF DIVERSION AND USE

DIVERTER OF RECORD:

DIV. OF WATER RIGHTS STATEMENT NO: 010123

DONNA A BLAYLOCK ET AL P 0 B0X 28 MONTGOMERY CREEK, CA 96965

> TELEPHONE NUMBER: (916) 337-6668

IF NAME/ADDRESS/PHONE NO. IS WRONG OR MISSING, PLEASE CORRECT.

SOURCE: JOHNSON CREEK

TRIBUTARY TO: MONTGOMERY CREEK

COUNTY: SHASTA

DIVERSION

WITHIN: NW1/4:OF SW1/4 SECTION 32, T35N, ROTE, MDB&M.

INSTRUCTIONS: Please complete Items A. B and C. Item D should be completed if you replaced all or part of your regular water supply with reclaimed or polluted water. RETURN THIS FORM BY JULY 1. (Additional information on reverse side of this form.) 1989.

Α.	Amount of Use - Fill in the amount of water used	d Amounts 🎘	Gallons	
	each month. If monthly and annual use are no	ot below are: É		
	known, check the months in which water was used	i]	(other)

F	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total Annual
1986	Х	X	X	X	X	X	X	X	X	X	×	× .	3,624,506
1987	X	X	×	×	×	X	×	×	×	X	×	X	3,620,506.
1988	X	X	X	X	\times	×	メ	×	~	S.	·		3.620.506.
1494													

There are two principal types of surface water rights in California. They are riparian and appropriative rights.

A riparian right enables an owner of land bordering a natural lake or stream to take and use water on his riparian land. Riparian land must be in the same watershed as the water source and must never have been severed from the source of supply by an intervening parcel without reservation of the riparian right to the severed parcel. Generally, a riparian water user must share the water supply with other riparian users. Riparian rights may be used to divert the natural flow of a stream but may not be used to store water for later use or to divert water which originates in a different water-shed, or return flows from use of groundwater.

An appropriative right is required for use of water on nonriparian land and for storage of water. Generally, appropriative rights may be exercised only when there is a surplus not needed by riparian water users. Since 1914 new appropriators have been required to obtain a permit and license from the State.

Statements of Water Diversion and Use must be filed by riparian and pre-1914 appropriative water users. The filing of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their diversion, and (3) assists the State to determine if additional water is available for future appropriators.

The above discussion is provided for general information. For more specific information concerning water rights, please contact an attorney or write to this office. We have several pamphlets available. They include:

"Statements of Water Diversion and Use"
"Information Pertaining to Water Rights in California"
"Water Rights for Stockponds Constructed Prior to 1969"
"Appropriation of Water in California"

STATE OF CALIFORNIA STATE WATER*RESOURCES CONTROL BOARD Division of Water Rights

P.O. BOX 2000 SACRAMENTO, CA 95810
901 P ST. SACRAMENTO, CA 95810
(916) 322-4503 / ATE WATER RESOURCES
SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE
1506 JUL 17 PM 3: 30

DIVERTER OF RECORD:

DIV. OF WATER RESTANTEMENT NO: 010123 SACRAMENTO

DONNA A BLAYLOCK ET AL P 0 B0X 28 MONTGOMERY CREEK, CALIF 96065

> TELEPHONE NUMBER: (916) 337-6668

IF NAME/ADDRESS/PHONE NO. IS WRONG OR MISSING, PLEASE CORRECT.

SOURCE: JOHNSON CREEK

TRIBUTARY TO: MONTGOMERY CREEK

COUNTY: SHASTA

DIVERSION

WITHIN: NW1/4 OF SW1/4 SECTION 32, T35N, RO1E, MDB8M.

INSTRUCTIONS: Please complete Items A. B and C. Item D should be completed if you replaced all or part of your regular water supply with reclaimed or polluted water. THIS FORM BY JULY 1. (Additional information on reverse side of this form.) 1986.

A. Amount of Use - Fill in the amount of water used each month. If monthly and annual use are not known, check the months in which water was used.

M Gallons **Amounts** below are: ☐ Acre-feet

(other)

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total Annual
1983	X	X	*	×	×	×	×	*	×	X	人	×	
1984	X	人	*	*	×	*	×	×	×	X	X	*	
1985	X	×	*	*	~	*	\prec	X	*	×	~	×	1

Sam Purpose of Use - Specify number of acres irrigated, stock watered, persons served

There are two principal types of surface water rights in California. They are riparian and appropriative rights.

A riparian right enables an owner of land bordering a natural lake or stream to take and use water on his riparian land. Riparian land must be in the same watershed as the water source and must never have been severed from the source of supply by an intervening parcel without reservation of the riparian right to the severed parcel. Generally, a riparian water user must share the water supply with other riparian users. Riparian rights may be used to divert the natural flow of a stream but may not be used to store water for later use or to divert water which originates in a different water-used to store water for later use or to divert water which originates in a different water-ashed, or return flows from use of groundwater.

An appropriative right is required for use of water on nonriparian land and for storage of water. Generally, appropriative rights may be exercised only when there is a surplus not needed by riparian water users. Since 1914 new appropriators have been required to obtain a permit and license from the State.

Statements of Water Diversion and Use must be filed by riparian and pre-1914 appropriative water users. The filing of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their diversion, and (3) assists the State to determine if additional water is available for future appropriators.

The above discussion is provided for general information. For more specific information concerning water rights, please contact an attorney or write to this office. We have several pamphlets available. They include:

"Statements of Water Diversion and Use" "Information Pertaining to Water Rights in California" "Water Rights for Stockponds Constructed Prior to 1969" "Appropriation of Water in California"

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

S 10123

STATEMENT OF WATER DIVERSION AND USE

(This is not a Water Right)

This statement should be typewritten or legibly written in ink.

Dorga A. McFarland, etal (Hugh A. Shuffleton Jr. Friedrick ph. Philiffleton Jr. Friedrick philipping ph. Philiffleton Jr. Friedrick philipping ph. Philiffleton Jr. Friedrick philipping	
A. Name of person diverting water New known as Donna A. Blaylock Married daughten of Florida as Donna A. Blaylock Married	on)
P.O. Box 28 & 164. Mont and Shuffleton) 337-6668 517337-6722 (1713-11 B)	aylo
Traine of body of water at point of diversion Johnson	Ce.
Tributary towards Water comes from many natural sources and returns to Mont	99
C. Place of diversion NW 1/ SW 1/ South 32	Comer
C. Place of diversion NW 1/4 SW 1/4 Section 32 , Township 35N , Range 1E , MD B&M,	
County, or locate it on sketch of section grid on reverse side with regard to section lines or prominent local landmarks. Bast of 299 E shows the base side with regard to section	
lines or prominent local landmarks. East of 200 E above the big cut 11-11 E. Mont. C. D. Name of works in a Name of works in a new parties of the ranch house water below the highway. Our Petersen I have and the ranch house water below the highway. Our Petersen I have and open ditch works in a pipe. Open ditch like pipe.	reek
- and though water Dalug-thanktonent now serting It haves	rs
E. Capacity of diversion works 18 th pine, open ditch, 18 th pine, 2½ th pine cubic feet per second Capacity of storage reservoir no reservoir	
Capacity of storage reservoir no reservoir gallons per minute gallons	
State quantity of water used each month in gallons or agreefeet Year Jan. Feb. Mar. Apr. May have July Apr. 2,000. gal.per day	
1979 x x x x x April May June July Aug. Sept. Oct. Nov. Dec. Appual	
").Oga
If monthly and annual use are not known, check months in which water was used. State extent of use in	
Trigation/Street, number of stock waters and	
Haximum annual water use in recent to be best of the part of the care garden, 24 chicken, 3 ducks, 2 geese, 2 pigs, 12 cornish game hens rabb	its.
Minimum annual water use in recent years	
Type of diversion facility: gravity xx, pump Pipe/Ditch	
Method of measurement: weir flume	
Method of measurement: weir, flume, electric power meter, water meter, estimate_x	
F. Purpose of use (what water is being used for) Commercial Beauty Shop w/Seperate bldg. bath/water heater. Domestic Home -Yard, garden, family, irrigation/steck	
and the state of t	•
C. General description or location of place of use (use sketch of section grid on reverse side if you desire) SEL NEL Sec. 31 TS 35NRIE MD?BM. Off Woodhill Detro.	
datein same ditch by 18 known 1883 to 1929 and from 1929 by our family	
L Name of person filing statement Denna A. (McForland)Blaylock, Glen Blaylock (hust) [Hugh A. Shuffleton Jr. & Elouise J. Shuffleton	it ray
Hugh A. Shuffleton Jr. & Elouise J. Shuffleton Address	
Arthress P.C. Box 28, Montgomery Creeki California Telephone 337-6478	
I declare under penalty of paraments and 1 declare under penalty of parameters and 1 declare under penalty o	
DATED: Consecut. 30 19 80 nt 12/4 states of my knowledge and belief.	
California	
Signature: Design of College	
SWRCB 40 (77). See Instructions on Reconstruction Superior	

Edlef F./Alice M. Petersen (later Alice M. Lattin) or thosed the property involved as a portion of the ranch bought in 1929 with all ditches, flumes, pipes & water rights running with the property. the property as all of Sec. 31 TO 35 NRIE & a parties of the east side of Sec. 36 TS 35 NRIW which had once been out through several places by the Calif. Div. of Highways for the Highway an 1921 -1923. They again cut through for a reroute of 299% in 1953 % retulement 1958 after a condemnation suit had been filed against our mover (by grandmother) as she was not satisfied with their lack of property good of our water back where it was. They spent some (9,500.)) to put in the pipeline, so that the water would flow where it had always some. After my mother grandmother passed on, the ranch below the highway was sold to generate income to support 2 miner children. It was not known at the time to 1964 chas the 2 married men who purchased this property were the owners of the bayfatte Land Co. and that 2 of the 4 trust deeds has actually been put in the maiden names of their 2 divas. We later learned that ours was just a small portion of the speculative purchases that they had a lo in the oran shader County a many of the same names of sales from our . .ch were also sold from some of the other sections & townships. From record independ in mardly any of the same names appear on deeds today, and ofter their way aplits, there are portions of 1.10 acres to 20 acres, 34 seperate parcels for exist below the highway. 4 including the Halcumb Cemebary lac. ere creased by our family while mother was still living.

The portion above the Highway was kept by the 5 hairs as this had been her intention for this to be divided in this mother. This tow into 13 parcels for his house supply.

We are individuals, 2 with commercial uses. We desect obtain matter from any other source other than rainfall or natural precipitation. It has been in continual use by members of the same findily for 51 years, and prior back to 1883. Some families are just beginning to develop and propose use of the acreage that will use more water. We have never harmed our dam (which is all too frequently been broken by persons) We repair & replace our pipe on BLM property when it is damaged and our collars and when an axe was taken to it, the Shauta Jounty therefor Dept in Berney visited the site with us, pictures were taken and some parties below 299E were warned by the officers to quit the vandalism.

A couple of people have drilled water wells for drisking ster, not all have been very successful and of course when the disch is suited to dry up by people tampering with the upper disch to pipe, so is the wells. Without the coming into the ditch, ground water is suitely shows lived. All kiter the land was formerly a single tract of land. No fish is this water stream, ditch water goes into pipeline on Sal Trant. Righter a rand ancer 200E in a concrete water box where the litth enters the Sharfle or projects. This secause they have purchased all acres for part his because they have purchased all acres for part his because they have purchased all acres for part his because they have purchased a locate for part his because they have purchased all acres for part his beginning in the state of the part his because they have purchased all acres for part his beginning project truck.

Reparian rights were severed by scale Division of Highways at their convenenience for highway re-routing Our use of this water does not conven-

Our use of this water does not cause any pollution or contamination.